



1st of April 2008

Consultation on The role of credit rating agencies in structured finance

1. The French Banking Federation (FBF) is the professional body representing over 500 commercial, cooperative and mutual banks operating in France. It includes both French and foreign-based organizations.

As universal banks, the FBF members are highly interested in the evolution of the regulation of credit rating agencies in structured finance, precisely on the current work of CESR on the role of credit rating agencies in structured finance.

2. Detailed responses to the questions

Transparency

Do you agree that the CRAs need to make greater on-going efforts to clarify the limitations of their ratings?

It is important to clarify that the rating concerns the solvency of the issuer, not the secondary market liquidity.

Do you agree with CESR's view that although there has been improvement in transparency of methodologies, the accessibility and content of this information for complex structured finance products requires further improvement in particular so that investors have the information needed for them to judge the impact of market disruption on the volatility of the ratings?

Do you agree that there needs to be greater transparency regarding the specific methodology used to determine individual structured finance ratings as well as rating reviews?

Do you agree that there needs to be greater public and standardised information on structured products in the EU? How would this be best achieved?

Transparency must be assured for methodologies used in assigning ratings to securitisation vehicles and the introduction of changes.

Comparison of the methodologies applied by the different CRAs must be possible.

To ensure a healthy development of securitisation, indispensable to increase capacity to finance the economy, transparency is required at three levels:

- The nature and risks of asset classes;
- The transfer of risk and commitments assumed by the issuer of the securitisation vehicle for the purpose of ensuring market predictability and preventing the potential of a liquidity crisis in the market;
- Monitoring asset classes in resecuritisation transactions.

Transparency for risks associated with asset classes and their monitoring implies the development of a system for classifying assets based on two distinct debt/risk segments.

Ex 1: Commercial mortgage debt/ prime;

Ex 2: Commercial mortgage debt/subprime.

In connection with this classification system, categories of debt that are securitised must be homogeneous.

The tranches of securitised debt must be homogeneous and comply with the classification system. The FBF recommends that each vehicle indicate the category of debt in the classification.

In the case of resecuritisation (for example ABSs of CDOs), each component of the structured vehicle must be associated with a particular classification so that the each class of securitised debt can be monitored.

The issuer of a securitised vehicle must specify the commitments assumed (commitment concerning the liquidity in the secondary market, commitment only concerning the longer term solvency, credit).

Monitoring

Do you agree with CESR that contractually set public announcements on structured finance performance would not add sufficient value to the market to justify the cost and possible saturation of the market with non-material information?

We concur that in view of the already ongoing automatic monitoring, additional public reviews by the CRAs would not provide significant added value and would not justify the additional cost and resource burden.

Do you agree that the monitoring of structured finance products presents significant challenges, and therefore should be a specific area of oversight going forward? Are there any particular steps that CRAs should take to ensure the timely monitoring of complex transactions?

The monitoring of ratings does indeed seem to be one of the particular challenges in the rating process. The FBF supports the proposed amendments to the IOSCO Code of Conduct as regards the importance of allocating sufficient resources to the monitoring and review of existing ratings, as well as ensuring that rating adjustments are made in a timely manner. These aspects are closely linked to both staff qualification and CRA remuneration, and we expect that enhanced transparency in these two areas would thus also have a positive effect on monitoring policies.

In our view, there is furthermore a need for much broader and more comprehensive reviews of past ratings than is currently the case. These reviews should be drawn up at least annually and be publicly available.

In addition, we suggest that the IOSCO puts in place a process of systematically monitoring the implementation and practical application of its Code by the CRAs. Such a process should include an analysis of rating migration and timing of rating adjustments, with the results being made available to the public.

Human Resources

Do you believe that the CRAs have maintained sufficient human resource, both in terms of quality and quantity, to adequately deal with the volumes of business they have been carrying out, particularly with respect to structured finance business?

As CESR's noticed, there is only a limited amount of data that seems to be available with regard to staffing, employee development and turnover levels while such information is of crucial significance.

Do you consider that the generally unaltered educational and professional requirements of CRAs' recruitment policies negatively impact the quality of their rating process, given the rising complexity of structured finance products?

It is mainly in the responsibility of CRAs to determine the appropriate profile for their analysts.

It is also responsible that the CRAs regularly review their requirements or be able to provide the reasoning underlying their (unaltered) requirements.

Do you agree there is a need for greater transparency in terms of CRA resourcing? Do you agree that more clarity and greater independence is required for analyst remuneration at the CRAs?

The information about staff resourcing is important and should also include aspects of remuneration policies.

Conflicts of interest

Do you see the level of interaction between the CRAs and issuers of structured finance products creating additional conflicts of interest for the CRAs to those outlined above? Do you believe that any of these conflicts are not managed properly?

Do you agree that greater transparency is required regarding the nature of interaction between CRAs and issuers/ arrangers with regards to structured finance products and that there need to be clearer definitions of acceptable practice?

Do you believe that there needs to be greater disclosure by CRAs over what they consider to be ancillary and core rating business?

Do you believe that the fee model used for structured finance products creates a conflict of interest for the CRAs? If yes, is this conflict of interest being managed appropriately by the CRAs?

Do you agree with CESR that there needs to be greater disclosure of fee structures and practices with particular regard to structured finance ratings so as to mitigate potential conflicts of interest?

The question of potential conflicts of interest within CRAs does not concern their existence which is indisputable and recognised by the CRAs themselves, but rather their management. These conflicts of interest exist either because CRAs receive remuneration from issuers or because they serve as both advisers of arrangers and issue ratings for products.

The FBF considers self-regulation to be the simplest and most effective approach to this problem. To this purpose, extension of the IOSCO Code of Conduct published in December 2004 is recommended.

This Code of Conduct applied on a voluntary basis (with the IOSCO exercising only a role of establishing guidelines) was signed by the leading CRAs. In December 2005 CRAs in Europe adopted the following commitments vis-à-vis the CESR:

- The CRAs will annually send a letter to the CESR outlining compliance with the IOSCO code and explaining any deviation that may exist between their own codes and the IOSCO code;
- CESR will annually organise a meeting with the CRAs to discuss any issues that might have arisen in relation to the implementation of the IOSCO Code;
- Any material incident that might occur with an issuer should be explained to the local securities regulator.

The Code covers three main areas:

- The quality and integrity of the rating process;

- CRA independence and the avoidance of conflicts of interest; and,
- CRA responsibilities to the investing public and issuers.

This Code currently covers corporate issuers. It should be further extended to include securitisation vehicles.

The Regulatory Environment and Concluding Remarks

Do you agree with CESR's view of the benefits and costs of the current regime? Do you agree that CESR has correctly identified the likely benefits and costs related to formal regulatory action?

We agree with most of CESR's outline of the costs and benefits of the current regime and of outright regulation as an alternative.

We note that CESR seems to some degree disappointed with CRAs' compliance with the Code of Conduct. Nevertheless, the possibility of exceptions was indeed foreseen by the "comply-or-explain" nature of the Code. If there is any criticism, then it should in a first instance focus on the appropriateness of CRAs' explanations for non-compliance in certain areas.

Do you believe that the current self-regulatory regime for CRAs should be maintained rather than introducing some form of formal recognition/ regulation?

Preference should be given to self-regulation over regulation. The principles of the IOSCO Code of Conduct of December 2004 should be extended to ratings of structured products and securitisation vehicles.